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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 GERALD GEORGE,

12 Defendant.

NO. CR-05-116-RHW-5

**PRELIMINARY ORDER OF
FORFEITURE**

13 Before the Court is the Government's Motion for Preliminary Order of
14 Forfeiture (Ct. Rec. 288). This motion was heard without oral argument. The
15 Government requests a preliminary order of forfeiture pursuant to Rule 32.2 of the
16 Federal Rules of Criminal Procedure and based upon the guilty plea of Gerald
17 George to the offense of Trafficking in Contraband Cigarettes, as charged in Count
18 11 of the Indictment, in violation of 18 U.S.C. § 2342(a), and upon the terms of the
19 Plea Agreement filed in this matter between Mr. George and the United States.

20 Accordingly, **IT IS HEREBY ORDERED:**

21 1. The Government's Motion for Preliminary Order of Forfeiture (Ct. Rec.
22 288) is **GRANTED**.

23 2. Pursuant to 18 U.S.C. § 2344(c) and 28 U.S.C. § 2461(c), Defendant
24 Gerald George's interest in the following property is forfeited to the United States
25 of America:

- 26 a. Sixteen thousand four hundred thirty-five (16,435) cartons of
27 contraband cigarettes seized by U.S. Immigration and Customs
28 Enforcement Agents on June 8, 2004, from JERRY'S SMOKE SHOP

1 at 5803 North Levee Road in Tacoma, Washington, a smoke shop
2 owned by GERALD GEORGE;

3 b. Two thousand two hundred ninety-four (2,294) loose packs of
4 contraband cigarettes seized by U.S. Immigration and Customs
5 Enforcement Agents on June 8, 2004, from JERRY'S SMOKE SHOP
6 at 5803 North Levee Road in Tacoma, Washington, a smoke shop
7 owned by GERALD GEORGE;

8 c. Two thousand eight hundred seventy-eight (2,878) cartons of
9 contraband cigarettes seized by U.S. Immigration and Customs
10 Enforcement Agents on June 8, 2004, from JERRY'S II SMOKE
11 SHOP at 1207 Alexander Avenue East in Tacoma, Washington, a
12 smoke shop owned by GERALD GEORGE;

13 d. One thousand one hundred twenty-four (1,124) loose packs of
14 contraband cigarettes seized by U.S. Immigration and Customs
15 Enforcement Agents on June 8, 2004, from JERRY'S II SMOKE
16 SHOP at 1207 Alexander Avenue East in Tacoma, Washington, a
17 smoke shop owned by GERALD GEORGE; and

18 3. Pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), Defendant
19 Gerald George's interest in the following property is forfeited to the United States
20 of America:

21 a. Seventy-eight thousand eight hundred twenty-one dollars
22 (\$78,821.00) in United States currency seized by U.S. Immigration
23 and Customs Enforcement Agents on June 8, 2004, from JERRY'S
24 SMOKE SHOP at 5803 North Levee Road in Tacoma, Washington, a
25 smoke shop owned by GERALD GEORGE; and

26 b. Eight thousand four-hundred forty-nine dollars (\$8,449.00) in
27 United States currency seized by U.S. Immigration and Customs
28 Enforcement Agents on June 8, 2004, from JERRY'S II SMOKE

1 SHOP at 1207 Alexander Avenue East in Tacoma, Washington, a
2 smoke shop owned by GERALD GEORGE.

3 **IT IS FURTHER ORDERED** that the United States Department of
4 Homeland Security, Customs and Border Protection, and/or its agents and
5 representatives, shall seize the above-described property and maintain said
6 property in its custody and control until further order of this Court, or until this
7 Order becomes final pursuant to Rule 32.2(c)(2) of the Federal Rules of Criminal
8 Procedure.

9 **IT IS FURTHER ORDERED** that pursuant to 21 U.S.C. § 853(n), the
10 United States shall publish notice of the Preliminary Order of Forfeiture and the
11 intent of the United States to dispose of the above-described property, in
12 accordance with law. The notice shall run for one (1) day each week for three (3)
13 consecutive weeks in the Daily Journal of Commerce and/or any other appropriate
14 newspaper of general circulation. The notice shall state that any person, other than
15 Defendant, having or claiming a legal interest in property described above must
16 file a petition with the Court within thirty (30) days of the final publication of
17 notice or of receipt of actual notice, whichever is earlier.

18 The notice shall advise such interested person that:

- 19 1. the petition shall be for a hearing to adjudicate the validity of the
20 petitioner's alleged interest in such properties;
21 2. the petition shall be signed by the petitioner under penalty of perjury; and
22 3. the petition shall set forth the nature and extent of the petitioner's right,
23 title or interest in the forfeited properties.

24 The petition shall also set forth any additional facts supporting the
25 petitioner's claim and the relief sought.

26 The United States shall also, to the extent possible, provide direct written
27 notice as a substitute for the published notice to any person known to have alleged
28 an interest in the above-described property, which is the subject of this Preliminary

1 Order of Forfeiture. Upon adjudication of any third-party claims, this Court will
2 enter a Final Order of Forfeiture pursuant to Rule 32.2(c)(2) of the Federal Rules
3 of Criminal Procedure, in which all such claims are addressed.

4 **IT IS FURTHER ORDERED** that pursuant to Rule 32.2(b)(3) of the
5 Federal Rules of Criminal Procedure, this Preliminary of Forfeiture shall become
6 final as to Defendant prior to the time of sentencing, upon conclusion of the
7 ancillary proceeding, and shall be made part of the sentence and included in the
8 judgment. Based upon the Plea Agreement and the guilty plea of Defendant
9 herein, the Court finds that Defendant had an interest in the forfeited properties. If
10 no third party files a timely claim, this Order shall become the Final Order of
11 Forfeiture as provided by Rule 32.2(c)(2) of the Federal Rules of Criminal
12 Procedure.

13 **IT IS FURTHER ORDERED** that after the disposition of any motion filed
14 under Rule 32.2(c)(1)(A) of the Federal Rules of Criminal Procedure, and before a
15 hearing on any third party petition, discovery may be conducted in accordance with
16 the Federal Rule of Civil Procedure upon a showing that such discovery is
17 necessary or desirable to resolve factual issues.

18 **IT IS FURTHER ORDERED** that the United States shall have clear title to
19 the properties listed above following the Court's disposition of all third party
20 interests, or, if none, following the expiration of the period provided in 21 U.S.C. §
21 853(n) for the filing of third party petitions.

22 **IT IS FURTHER ORDERED** that the Court shall retain jurisdiction to
23 enforce this Order, and to amend it as necessary, pursuant to Rule 32.2(e) of the
24 Federal Rules of Criminal Procedure.

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27 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
28 Order, forward copies to counsel, and to forward seven (7) "raised seal" certified

1 copies to the United States Attorney's Office in Seattle, Washington.

2 **DATED** this 8th day of June, 2007.

3 *S/ Robert H. Whaley*

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5 **ROBERT H. WHALEY**
United States District Judge

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